

## **REMARKS**

1. In response to the Office Action mailed January 25, 2006, Applicant respectfully requests reconsideration. Claims 58-65 and 67-76 were last presented for examination in this application. In the Office Action claims 58-65 and 68-76 were rejected and claim 67 is objected to. No claims have been amended, canceled or added. Thus, upon entry of this paper, claims 58-65 and 67-76 will remain pending in this application. Of these 18 claims, two (2) claims (claims 58 and 68) are independent. Based on the following Remarks, Applicant respectfully requests that the outstanding objections and rejections be reconsidered, and that they be withdrawn.

### ***Art of Record***

2. Applicant acknowledges receipt of form PTO-892 identifying additional references made of record by the Examiner.

### ***Allowable Subject Matter***

3. Applicant notes with appreciation the Examiner's indication that claim 67 would be allowable if rewritten to include the limitations of its respective base claim and any intervening claims.

### ***Double Patenting Rejections***

4. The Examiner has rejected claims 58-65 and 68-76 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 42 of U.S. Patent No. 6,320,577 B1 to Alexander (hereinafter, "Alexander").

5. Applicant has filed concurrently with this paper a terminal disclaimer disclaiming the terminal part of the statutory term of any patent granted on the captioned application, which would extend beyond the expiration date of the full statutory term of United States Patent No. 6,320,577. Applicant respectfully asserts that these rejections have been obviated by the filing of the terminal disclaimer.

6. Applicant has submitted the terminal disclaimer solely to advance the prosecution of the application, without conceding that the double patenting rejection is properly based. In filing the terminal disclaimer, Applicant relies upon the rulings of the Federal Circuit that the

filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. See, e.g., Quad Environmental Tech v. Union Sanitary Dist., 946 F.2d 870, 874-875 (Fed. Cir. 1991); Ortho Pharmaceutical Corp. v. Smith, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

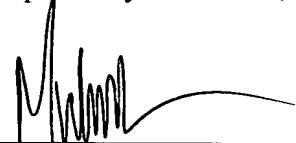
***Dependent Claims***

7. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter which makes them *a fortiori* independently patentable over the art of record. Accordingly, Applicant respectfully requests that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

***Conclusion***

8. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,

  
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